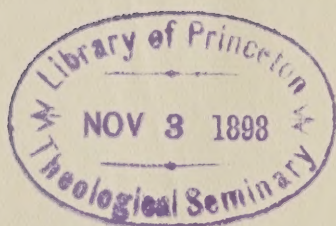


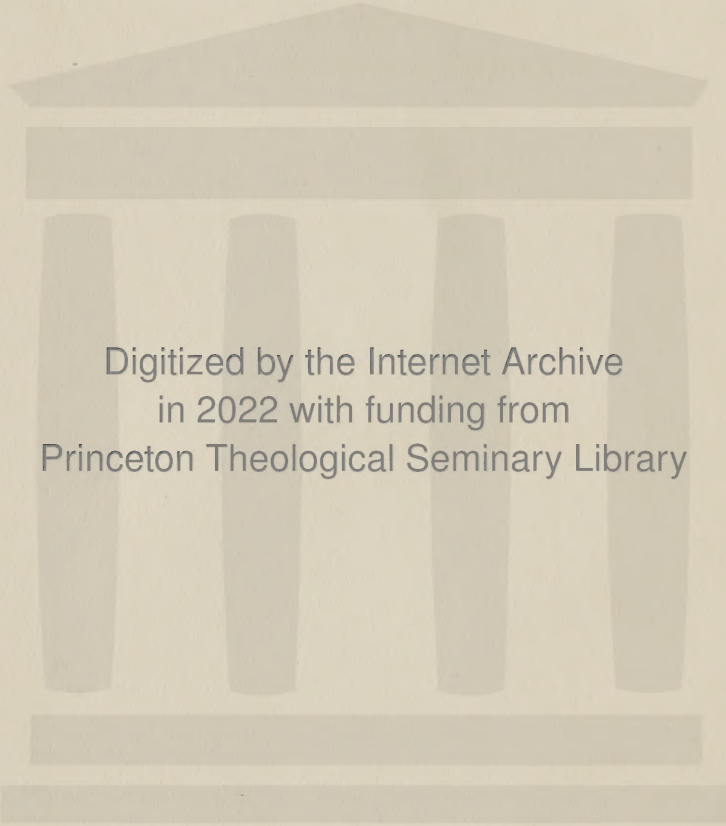
CIVIL CHURCH LAW

NEW JERSEY

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Civil church law



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CIVIL CHURCH LAW

EDITED BY

GEORGE JAMES BAYLES, PH.D.

LECTURER IN

THE CIVIL ASPECTS OF ECCLESIASTICAL ORGANIZATION

COLUMBIA UNIVERSITY

NEW JERSEY

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1898

NEW JERSEY CIVIL CHURCH LAW

- The Constitutional Guaranties, 1
- The Civil Aspects of Religious Societies, 2
- Church Property, 4
- The Jurisdiction of the Courts, 7
- General Provisions for Incorporation, 8
- Name to Be Certified and Recorded, 9
- Power to Hold Property, 9
- To Perpetuate a Board of Trustees, 10
- The President and His Powers, 11
- The Secretary and His Duties, 11
- The Treasurer and His Duties, 12
- Power to Sell and Convey Real Estate, 12
- Annual Meetings, 18
- Majority of Trustees Church Members, 13
- Treasurer May Be Elected, 13
- The Number and Term of Trustees, 14
- Annual Meetings, How Called, 14
- Change of Church Name, 14
- Certificate to Be Filed, 14
- Change of Corporation Name, 14
- Change of Officers and Terms, 15
- May Establish New Departments, 15
- Certificate to Be Filed, 15
- Societies May Consolidate, 15
- Use of Church Funds, 16
- School Funds of Churches, 16
- Erroneous Title, How Corrected, 17
- Conveyance by Trustees to Church, 17
- Trustees May Sell Church Property, 18
- Application to Chancellor, 19
- May Increase Amount and Value of Property, 21
- Limitation Upon Amount of Property, 22
- Conferences, Confraternities, Diocesan Conventions, Presbyteries, Synods, Etc., 22
- State Denominational Organizations, 24
- Societies or Confraternities of Clergymen, 25
- Managers of Funds for Retired Clergy, 27
- The General Powers of Corporations, 28
- Of Baptist Churches, 28
- Of Christian Reformed Churches, 32
- Of Evangelical Lutheran Churches, 32
- Of German Reformed Churches, 33
- Of Israelites, 33
- Of Methodist Episcopal Churches, 34
- Of Presbyterian Churches, 34
- Of Protestant Episcopal Churches, 36
- Of Reformed Dutch Churches, 43
- Of Reformed Episcopal Churches, 47
- Of Roman Catholic Churches, 47
- Cases Cited, 49

THE CONSTITUTIONAL GUARANTIES,

in effect June 29, 1844: No person shall be deprived of the inestimable privilege of worshiping Almighty God in a manner agreeable to the dictates of his own conscience; nor under any pretense whatever be compelled to attend any place of worship contrary to his faith and judgment; nor shall any person be obliged to pay tithes, taxes, or

other rates for building or repairing any church or churches, place or places of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right, or has deliberately and voluntarily engaged to perform. Article I.—3.

There shall be no establishment of one religious sect, in preference to another; no religious test shall be required as a qualification for any office or public trust; and no person shall be denied the enjoyment of any civil right, merely on account of his religious principles. *Ib.*,—4.

No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association, or corporation whatever. *Ib.*,—20.

The legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers obtained, subject to repeal and alteration at the will of the legislature. Article IV., Section VII.

THE CIVIL ASPECTS OF RELIGIOUS SOCIETIES.

Every Denomination Recognized as an Entity. Any and every church, religious society, or denomination of Christians now or hereafter to be established in the United States of America, and the supreme governing body thereof, whether sole or aggregate, shall be severally recognized in this State, as well in courts of justice as elsewhere, as an entity bearing the name by which it is commonly called and known, the want of any civil corporation notwithstanding; and said supreme governing body, whether sole or aggregate, shall be and hereby is authorized to bring or institute or maintain any action, suit, or proceeding, in any court of this State, to enforce the civil rights and claims of the whole church, religious society, or denomination of Christians.

The words or phrases “church,” “religious society,” “denomination of Christians,” as in this act used and employed, are hereby defined to mean and include, and

shall be construed in courts of justice and elsewhere to mean and include, the whole body of religious believers having a common faith and polity. Act approved Mar. 15, 1898.

To constitute membership in any church from the standpoint of the civil law two points, at least, are regarded as essential,—a profession of its faith and a submission to its government. After persons withdraw from a church they do not continue to be members of it simply because they continue to hold the same religious faith and tenets as the members of that church. *Den. Day v. Bolton*, 7 Hal., 206.

Religious societies whose trustees are incorporated under the general statute present in law a threefold aspect: (1) the congregation which usually meets together for religious worship and instruction; (2) the church, strictly so called, composed of those entitled to full church privileges, and (3) the trustees or corporation. *Miller v. Baptist Church*, 1 Harr., 251.

In societies where the source of authority is action by the whole body of members and which are incorporated under the general act, the acts and proceedings of a majority at a regular meeting are binding on the minority in temporal affairs. *Miller v. English*, 1 Zab., 317.

It is not a valid objection to action taken at a meeting of such a congregation that members of the congregation were absent, or, being present, did not vote. Where a society is composed of an indefinite number of persons, a majority of those who appear at a regular meeting constitute a body to transact business. The presumption is that all the members present who observe silence when a question is put, concur with the majority of those who actually vote—that is if the question be put audibly and explicitly. *Worrell v. First Church*, C. E. Gr., 96.

A congregation or an inferior ecclesiastical corporation which, by its organization, is connected with and subject to the superior jurisdiction of the denomination to which it belongs, can not by the act of the corporation, or

a majority, secede from the denomination, declare themselves independent, and take their corporate property with them. *American Primitive Society v. Pilling*, 4 Zab., 653.

Who are the officers of ecclesiastical organizations is to be determined by the constitution of the organization itself, including the decisions of its own tribunals. Where an officer of a religious society has been duly appointed, and the term of his office does not cease by limitation of time, the presumption is that he remains in office until competent evidence of his due removal has been furnished; and whoever claims on the ground that his office has ceased, must establish it by legal and sufficient proof. *Hendrickson v. Decow, Sax.*, 578.

If there be a resignation of an officer it does not take effect until accepted. *Doremus v. Dutch Church*, 2 Gr. Ch., 332.

The pastoral relation is considered as being for religious purposes, and not for mercenary ends, but the contract involved in it, which the law enforces and protects, and the surrender of which when it involves matter of pecuniary loss, is lawful matter of compensation, and is a valid consideration for a contract to pay money. *Worrell v. First Church of Millstone, C. E. Gr.*, 96.

CHURCH PROPERTY.

The following property shall be exempt from taxation, viz.:

All buildings erected and used for religious worship and the land whereon the same are situate, necessary to the fair use and enjoyment thereof, not exceeding five acres for each one, the furniture thereof and the personal property used therein and the endowment or fund of any religious society, provided, that no building so used which may be rented for such purposes and rent received by the owner therefor shall be exempted, and pews in churches. Act of April 11, 1866.

The dwelling house owned by any religious corporation

and the land upon which the same stands, while and during only the time actually used by the officiating clergyman of such religious corporation, shall be exempt from taxation to an amount not exceeding five thousand dollars, but not more than one dwelling actually used by any one religious corporation shall be so exempt. Act of March 11, 1893.

The following property is also exempt from taxation: All colleges, academies or seminaries of learning, public libraries, school houses, buildings erected and used for religious worship, buildings used as asylums or schools for the care, cure, nurture, maintenance, and education of feeble minded or idiotic persons and children, provided such institutions are duly incorporated under the laws of the State of New Jersey, and the land whereon the same are situate necessary to the fair use and enjoyment thereof, not exceeding five acres for each one; the furniture thereof and the personal property used therein, the endowment of any religious society, college, academy, seminary of learning, or public library, or institution for feeble minded persons, provided, that no building so used which may be rented for such purposes and rent received by the owner therefor, shall be exempted; pews in churches, grave yards, not exceeding ten acres of ground, cemeteries, and all buildings used exclusively for charitable purposes, with the land whereon the same are erected, and which may be necessary for the fair enjoyment thereof, and the furniture and personal property used therein. Act of May 16, 1894.

A mortgage held by a church as security for a sum of money bequeathed to a church, with a direction that the interest therefrom is to be used in the payment of the minister's salary, is exempt from taxation on the ground that the sum secured is an endowment of a religious society. *Trustees v. Silverthorn*, 23 Vroom, 73.

The common law right of the alienation of property by religious corporations has not been restrained in New Jersey by statute. *Van Houten v. First Reformed Dutch Church*, C. E. Green, 126.

The act to incorporate the trustees of religious societies does not by its own force do more than vest the legal title to church property in such trustees. The statute was designed to create a simple trust, so that the trustees should hold and dispose of the church property according to the directions of their *cestuis que trust*, who, according to the ecclesiastical organization, may be either the congregation or certain officials. *Morgan v. Rose*, 7 C. E. Gr., 583.

Where property has been given in trust for a church not incorporated, it is competent for any person belonging to such church, on behalf of himself and all others belonging to such church and entitled to the benefits of its funds, to come into a court of equity in order to enforce the execution of the trust. And if the body consists of various congregations, one or more of them, which may be incorporated, may in like manner enforce the execution of the trust. *Associate Reformed Church v. Trustees*, 3 Gr. Ch., 77.

A change in the ecclesiastical relation of a church or religious society for whose benefit property is held in trust does not of itself involve any perversion of the trust, or diversion of the fund from its legitimate purpose. *Swedesborough Church v. Shivers*, 1 C. E. Gr., 453.

But it also seems to be a well established principle that when part of any religious association separates from the original body and establishes a new society, they cease to be members of the original society and have no longer any claim to the property of the latter. *Associate Reformed Church v. Trustees of Theological Seminary*. 3 Gr. Ch., 77.

Where pews in a church building have been purchased and a title given to the purchaser, he has but a qualified interest.

His estate is in the nature of an incorporeal easement. His right is subject to that of the trustees, who may take down, rebuild, or remove the church edifice for the purpose of more convenient worship, without making any compensation to pew-owners for the temporary interrup-

tion. On the application of a pew-owner the court has declined to enjoin the pulling down and rebuilding or the removal of the church edifice by the trustees whenever it shall be found expedient. And the court declared that it would not affect its decision that such an application be made by a majority of the church members and congregation entitled to vote at its congregational meetings. *Van Houten v. McKelway*, 2 C. E. Gr., 126.

But a writ of injunction has been granted on a bill filed by pew-holders restraining the authorities of a church from pulling it down for the purpose of using the material in the erection of a new edifice on a different site. *Van Horn v. Talmage*, 4 Hal. Ch., 108.

On the nature of the estate of a pew-owner see *Presbyterian Church v. Andruss*, 1 Zab., 325, and *Van Houten v. First Reformed Church*, 2 C. E. Gr., 126.

THE JURISDICTION OF THE COURTS.

The jurisprudence of the State emphasizes the general principle that the civil courts will not assume jurisdiction to control the proceedings of ecclesiastical bodies in matters spiritual which do not affect the civil rights of individuals. When, however, the civil rights of an individual are involved, jurisdiction is committed to the courts of law to protect those rights which the court can not disregard. *Jennings v. Scarborough*, 27 Vr., 402.

The Court of Chancery has said that it can not inquire into the doctrines and opinions of any religious society for the sake of deciding whether they are right or wrong. If a fact be necessary to be ascertained by the court, for the purpose of settling a question of property, it is the duty of the court to ascertain it; and this must be done by such evidence as the nature of the case admits.

If the doctrines held by any religious society be important in determining a question of property, the persons who would avail themselves of such doctrines must prove them. *Hendrickson v. Decow*, Sax., 577.

The Court of Chancery has declared, however, that it

will go a great way in protecting trust property, even to examining into the creeds and doctrines of religious societies, if the nature of the trust depend upon them. But it must appear in the bill praying for relief that the trustees are perverting the property intrusted to them to uses and purposes inconsistent with that trust, and that the matters complained of were not such as had been committed to their discretion; and to this end the court must be able to ascertain the limits of their authority over the property under their charge. *Ranier v. Howell*, 1 Stock., 121. *Lutheran Church v. Maschop*, 2 Stock., 57.

The attitude of the court is well illustrated in the case of *Ludlam v. Higbee*, 3 Stock., 342, where the facts were that individuals subscribed and contributed a considerable fund for the purpose of building a church at Cape May, for visitors belonging to all denominations of Christians, upon the trust that the title was to be vested in and held for the purpose mentioned by individuals holding the Presbyterian faith. The court held that if the property was conveyed to persons of the Presbyterian persuasion; if a trust was created by which the property was to be held by individuals holding the Presbyterian faith, to be used as a place of worship for the contributors of the fund and others, visitors at Cape May; if the individuals in whom the title to the property was vested violated their trust by conveying the property to an ecclesiastical body under the organization of the Methodist Church; who held it for the exclusive benefit of persons of their own denomination and excluded all other denominations of Christians, then the contributors to the fund were entitled to their bill for the protection of the court because they were deprived of their benefit from the trust property.

INCORPORATION AND REGULATION.

General Provisions for Incorporation. 1. Every religious society or congregation of Christians entitled to protection in the free use of their religion by the constitu-

tion and laws of this State, may assemble at their usual place of meeting for public worship, at any time they have agreed upon, giving at least ten days' notice of the time and purpose of the assembly by an advertisement set up in open view at or near the place of meeting. When so assembled the society or congregation, by plurality of voices of such members present who regularly contribute to the support of the society, male and female, over twenty-one years of age, may elect any number of the society to be trustees. Such trustees and their successors in office are constituted a body politic and corporate in law by the name they assume according to the statute.—Rev. Approved April 9, 1875, as amended March 14, 1879.

Name to be Certified and Recorded. 2. When such trustees take upon themselves a name they shall certify such name under their hands and seals, and transmit such certificate to the Clerk of the Court of Common Pleas of the county, who should instantly record the same, for which he shall be entitled to receive one dollar. Thereupon such trustees are distinguished in law by the name of incorporation, so taken, certified, and recorded. *Ib.*, §2.

Power to Hold Property. 3. Such trustees and their successors, by such name of incorporation, are able to acquire, purchase, receive, have, and hold any lands, tenements, hereditaments, legacies, donations, moneys, goods, and chattels in trust for the use of said society or congregation, to an amount in value not exceeding two thousand dollars a year, and the same or any part thereof to sell, grant, assign, demise, alien, and dispose of; to sue or be sued, implead or be impleaded, in any court of law or equity; to make and use a common seal, and to alter and renew the same at their pleasure. *Ib.*, §3.

The election of trustees of a religious society must be held at their usual place of meeting. *American Society v. Pilling*, 4 Zab., 653.

When the usual place of meeting of a society has been changed by them, an election of trustees at the old place of meeting is invalid. *Miller v. English*, 1 Zab., 317.

When a majority of an electing body protest against the election of a proposed candidate, yet do not propose any other candidate, the minority may elect him. *Hendrickson v. Decow*, Sax., 577.

No new election of trustees of a religious society whose trustees are elected under the statute for one year, can be made during the year, unless the trustees have been properly removed. *American Society v. Pilling*.

Whenever a religious society whose trustees are incorporated under the general act hold a new election of trustees for the purpose of being incorporated, the object of the new election and certificate is to preserve, and not to change or dissolve, the old corporation; the new corporation is in law a continuance of the old. *Miller v. English*, 2 Hal. Ch., 304.

To Perpetuate a Board of Trustees. In order to perpetuate a line of succession in the trustees of any religious society or congregation which has been incorporated, the members of such a society may assemble at any time they may think proper, having given the same notice as the law directs for the first election of trustees, to elect any other trustee or trustees in the place of those or any of those before elected, in case they see cause for the removal of such trustees; provided, such removal shall not be less than one year after his or their election into office; and also to fill the vacancy which may be caused by the expiration of the term of office of any trustee or trustees, or by his moving out of the limits of the society or congregation. At such a meeting any person may vote, male or female, being twenty-one years of age, who is a regular attendant upon the services of the congregation, and not elsewhere, and who contributes regularly to the support of the society or congregation, according to his or her engagements, whether as a pew-holder or by subscription; provided, that no person shall vote at any election of such trustees who is not qualified to vote according to any limitation, condition, restriction, or trust contained in the

deed for the church site or other real estate owned, held, or occupied by such society or congregation; and provided further that in the elections for trustees of religious societies or congregations known as Baptists, the persons entitled to vote shall be such as have heretofore, by the rules and practice of said denomination, been deemed qualified to vote, to-wit, all members in good and regular standing. Rev., as amended, May 15, 1894.

The President and His Powers. Trustees so incorporated may elect, annually, or oftener if necessary or expedient, one of their number to be their president, with power to convene the corporation as occasion may require; and to preside at its meetings, and to execute all contracts, and, in case of his absence, sickness, death, resignation, refusal to act, or moving out of the limits of the society or congregation, then the office of president devolves on the senior trustee, for the time being, who shall occupy the office until the return or recovery of the president, or the election of another. *Ib.*, §5.

The Secretary and His Duties. Trustees so incorporated may elect annually, or oftener if necessary or expedient, one of their number to be secretary, who shall keep the minutes and enter the orders, acts, and proceedings in a book to be kept for that purpose, and who shall have the custody of the common seal, and the papers, deeds, writings, documents, and books of or relating to the corporation. Upon application to such a secretary any member of the society or congregation may have free access to all the papers, deeds, writings, minutes, documents, and books belonging to the corporation. Upon the death, resignation, removal, or expiration of the office of secretary, or the election of a new one, all such property of the corporation shall be delivered to his successor in office, on the oath of the preceding secretary, or in case of his death, on the oath of his executors or administrators, under such pecuniary penalty as the corporation shall have previously fixed, to be recovered with costs by an action of debt in the name and for the use of the corporation. *Ib.*, §6.

The Treasurer and His Duties. At the same election trustees so incorporated may elect one of their own number to be treasurer, who shall have charge of the moneys of the corporation and keep a correct account of the receipts and disbursements, and, at each annual election for officers of the corporation, render to the society or congregation a true statement in writing of the receipts and disbursements of the corporation for the preceeding year, and, upon the death, resignation, removal, or expiration of the office of treasurer, or the election of a new one, all the books, accounts, vouchers, and documents in the custody of the treasurer, belonging to the corporation, shall be delivered to his successor in office. *Ib.*, §7.

Power to Sell and Convey Real Estate. It shall be lawful for any religious society in this State, however incorporated, to purchase and hold, and also to convey and dispose of, any real estate which they may deem necessary and expedient; *provided*, that the same shall not be used by the religious corporation acquiring the same for any other purpose than the rendering and maintaining in any building now or hereafter erected upon such real estate the worship of Almighty God, and the furtherance of religion according to the tenets and forms of worship of the religious denomination to which such religious society belongs, or for education, or the administration of charity to the bodies or souls of men; *provided, however*, that it shall be lawful for such religious society to hold, and also to convey and dispose of land, not exceeding fifty acres heretofore conveyed to such religious society for the purposes of a cemetery and the burial of the dead, and to sell the same in lots or plots for the burial of deceased persons, subject to any and all laws of this State governing cemeteries and the burial of the dead, and to devote the moneys derived from said sale to the laying out, care, and maintenance of said cemetery or burial-ground, and for no other purpose; and when the moneys received from sales of lots shall be in excess of the wants of such religious society for the prop-

er care and maintenance of its burial-grounds, it shall be lawful to invest such surplus in safe and suitable securities, and the interest derived therefrom shall be devoted to the care and maintenance of its burial-grounds, and for no other use; any conveyance or agreement by and between any religious corporation intended for the purposes aforesaid by or under the authority of such corporation, now made or hereafter to be made, is hereby declared to be valid and effectual in law; the proceedings, order, and acts of a majority of all the members of the said corporation, but not of a less number, shall be valid and effectual in law.

This act shall be deemed a public act, and shall take effect immediately.

Approved April 12, 1898.

Of Annual Meetings. Any religious society that has been incorporated heretofore by a special act of the legislature at an annual meeting may designate, by a majority of the members present and duly qualified to vote, the time and place at which they will hold their annual meeting thereafter, any special act to the contrary notwithstanding. Act of March 22, 1883.

The Majority of Trustees Must be Church Members. In the election of trustees of any religious society incorporated by special act, it is not necessary as a qualification for such an election that the trustees be members of the church in connection with which the corporation exists; provided, always, that they are attending members of the congregation, and contribute to the support of the church of which they may be elected trustees, and, provided also, that at least a majority of the trustees so elected shall be members of such churches in good and regular standing. Act of March 14, 1879.

A Treasurer May be Elected. At the same time and in the same manner as such trustees are elected, a society or congregation may also annually elect a treasurer of the society or congregation, who becomes ex-officio a member of the board of trustees of the society. Act of March 9, 1887.

May Designate the Number and Term of Trustees. At such an annual meeting a society or congregation may provide by by-law or resolution for the election of its trustees for a term of three years, but in such a case, at the first election held under this act, the number of trustees shall be fixed by the society and shall be divided as near as can be into three equal numbers, of whom one part shall be elected for one year, one part for two years, and one part for three years, and then annually thereafter. The terms of those expiring shall be filled for a period of three years.

Vacancies occurring for any cause shall be filled for the unexpired term only. *Ib.*, § 2.

Annual Meetings, How Called. Annual meetings for the election of trustees and the treasurer of any society or congregation shall be called by its board of trustees, upon a ten days' notice, as provided by law, signed by the secretary of the board and posted as required. Such a meeting when convened shall elect its own officers and determine its own rules of procedure. *Ib.*, § 3.

Change of Name, How Effected. Any church may change its corporate title and assume another title by a resolution of the body having the management of its temporalities, certified under its corporate seal, proved as deeds for land must be proved, and when filed in the office of the clerk of the county in which said church is situated, such a corporation will thereafter be known in law by such new title, provided, that the foregoing provision shall not be construed to relieve a corporation from any legal obligations due to, held by, or belonging to such corporation. Act of March 11, 1874, amended April 12, 1886.

Certificate to be Filed. The clerk of the county in which the church is situated must file the resolution changing the corporate title, as certificates of incorporation are required to be filed, for which service he is entitled to receive the sum of one dollar. *Ib.*, § 2.

Proceedings to Change Name. Any religious corpora-

tion may, by a two-thirds vote, at any regular meeting, change its corporate name, specifying by such vote what the new corporate name shall be. Thereafter the corporation is to be known by the new name so adopted, and shall, by such new name, retain all its property, and enjoy the same powers and be subject to the same liabilities as if the name had not been changed. Act of March 14, 1893.

Change of Officers and Terms. Any such religious corporation may, by a majority vote at any regular meeting, make such changes in the number of officers and managers or trustees of the corporation, and the terms of their office, as may be considered for the interests of the corporation. *Ib.*, §2.

May Establish New Departments. Any such religious corporation may at any regular meeting by a majority vote establish any new department or departments of religious work not specified in the act of incorporation, and maintain the same. *Ib.*, §3.

Certificate to be Filed. Whenever any or all of the changes provided for in this act are made, a certificate of such change or changes, over the hand of the presiding officer of the corporation, attested by the secretary, shall be filed with the secretary of state within thirty days after such change is made. *Ib.*, §4.

Societies May Consolidate. Whenever two incorporated religious societies of the same denomination agree, with the approval of the presbytery, classis, or other like governing body within whose jurisdiction they are located, to consolidate their two societies into one, the boards of trustees or other like bodies of the two societies may make, under their respective seals, with the signature of the president of each, and attested by the secretary, a certificate that such two societies have consolidated, giving also the name which they have selected for the new organization, and transmit the same to the clerk of the Court of Common Pleas of the county, whose duty it shall be to instantly record the same.

Thereupon such two societies become consolidated into one corporation, under the name selected, which is invested with all the property, assets, rights, privileges, powers, and franchises belonging to either of the two former societies, but subject to all the debts and liabilities of each, and to the terms of agreement under which such consolidation was made.

From the time of such consolidation the new corporation shall possess and exercise all the powers, rights, privileges, and franchises which any religious society of like denomination may possess and exercise when incorporated under the existing laws of the State. Act of March 5, 1890.

Use of Church Funds. It shall not be lawful for the rector, wardens, and vestrymen, or the trustees, consistory, or session of any church, congregation, or religious society, incorporated under any of the laws of this State to divert the estate, property, or revenue belonging thereto to any purpose except the support and maintenance of the church or religious or benevolent institution or object connected with the church or denomination to which such corporation shall belong, and the highest judicatory of any denomination from which property is attempted to be, or is being, or shall be diverted in violation hereof, is hereby authorized to enforce the foregoing provision; but nothing herein contained shall be construed as preventing action being taken by members of the congregation or otherwise, as heretofore, to enforce the said provision. Act of March 25, 1881.

School Funds of Churches. The Chancellor, summarily upon petition of any person or persons or body corporate, holding funds or sum of money which may have been given for the purpose of either maintaining schools or the support of poor people as scholars in schools formerly maintained on the property of religious societies, which schools have now ceased to exist, may inquire into the merits of such application, and if it be found impossible to fully carry out and comply with the provisions of such

trust, may order payment of the income from such funds to the maintenance of the property of such religious society, or for any other purpose nearest akin to the trust, Act of May 12, 1890.

Erroneous Title, How Corrected. Where in a deed of conveyance the corporate name of a religious society or corporation as the grantees is not correctly stated, and where the intention of the grantor is signified by the use of the principal words of the corporate name, and where such society or corporation have entered into possession and occupation of such real estate, such society or corporation may file with the clerk or register of the county a statement setting forth the date of such deed of conveyance, the date of the recording, the number and page of the book of record, the names of the grantor or grantors, the description of the property conveyed, the erroneous title as expressed in such deeds, and the correct title thereof. Such a statement shall be verified by the affidavit of any duly authorized officer of such society or corporation, taken by one authorized to take the acknowledgment and proof of deeds. The clerk or register shall have the usual fee for the recording of deeds.

Upon the recording of such statement such societies or corporations shall be deemed to be vested in as perfect title to real estate so conveyed by an erroneous corporate name, as though the same had been conveyed to them by their proper corporate name, and such verified statements, or duly certified copies, shall be received as evidence in any of the courts of this State. Act of March 9, 1877.

Conveyance by Trustees to Church. In case the trustees of an intended church organization, still unincorporated, have taken title to real estate in their own names, or in their own names as trustees of such intended organization, and such organization becomes perfected according to law by the same or other name, it shall be lawful, and such trustees, or the survivors or survivor of them, are, and is, authorized and required to convey by sufficient

deeds in law all their right, title, and interest in such real estate to the trustees of such perfected organization by the same or any other name than the one originally intended; and when such lands shall have been so conveyed, such perfected organization shall hold the same as completely as though the said organization had been originally perfected according to law. Act of March 25, 1881.

Trustees of Any Church May Convey to Church. In all cases where the conveyance of real estate has been made to the trustees of any religious society by their individual names as trustees of such society, such trustees and the survivors or their successors in office are authorized to convey the same to the particular society of which they are trustees, by its corporate name, and such a conveyance shall vest in said society as valid a title as if the conveyance to said trustees had been made directly to such society by its corporate name. Act of March 8, 1887.

Trustees May Sell Church Property. Any incorporated religious society, by its trustees, consistory, or other board or persons managing its temporalities, are authorized to sell and convey, in fee simple or otherwise, any real estate owned by them, together with the appurtenances, and to execute and deliver good and sufficient deeds of conveyance, and every such deed or deeds shall be good and effectual in law; provided such a sale shall have been duly authorized at a meeting of such religious society, by the vote of two-thirds of those present; and, provided, further, that such meeting shall have been legally called. Act of Feb. 27, 1889, amending Act of April 5, 1886.

Trustees Have Power to Sell and Convey Lands, etc. Any incorporated religious society holding the title to real estate in trust or on condition that the same be used for church purposes, may, by its board of trustees, consistory, or other board managing its temporalities, without a vote of the members of the society, sell and convey in fee simple or otherwise such real estate or any part there-

of, with the appurtenances, freed from such trust or condition, and the deed therefor shall convey to the purchaser a title effectual in law, free from such trust or condition; provided, the donor or donors by whom such trust was created or condition imposed, shall have discharged the property of such society from such trust or condition, or shall consent to such conveyance free from such trust or condition. Act of March 26, 1889, supplement to Act of April 5, 1886.

Trustees May Sell or Mortgage Church Property. Any incorporated religious society, by its trustees or other board managing its temporalities, may sell and convey in fee simple, or by way of mortgage or any other estate, any or all real estate owned by such society in fee simple, and give all necessary conveyances therefor; provided that any such sale be first authorized at a regular or special business meeting of the members of such religious society. Act of March 31, 1890.

Application to Chancellor for Leave to Sell Lands. Whenever any incorporated religious society entitled to lands and tenements, granted or devised to them by deed, will, or otherwise, appropriating the rents, issues, and profits thereof to specific use, but without power to sell and convey the same, shall represent to the chancellor that the interest of the persons of such society in such lands should be sold and disposed of, the chancellor may, in a summary manner, inquire into the merits of the application, and from such time the persons interested in such lands, and such society, as the case may be, as far as relates to such lands, its proceeds, and income, shall be considered wards in chancery. On every such application the chancellor shall, in his discretion, appoint a suitable trustee, or trustees, who shall give bond to the State, to be filed with the clerk of the Court of Chancery, in such penalty and with such surety as the chancellor shall direct, conditioned for the just and faithful performance of the trust, and for the observance of such orders and directions as the chancellor shall, from time to time, make

in the premises, which bond, if forfeited, may be prosecuted by the direction of the chancellor.

After such bond shall be filed, the chancellor may proceed in a summary manner, by reference to a master, to inquire into the merits of such application, and, as often as it shall satisfactorily appear to the court that the interests of the parties requires, or will be substantially promoted by, a sale of such land, or any part thereof, the chancellor may direct such a sale by the trustees, either in whole or by subdivision, and upon such terms of credit as may be deemed expedient, and all sales made in good faith, and in pursuance of the directions of the court, when confirmed, shall be effectual in law.

All such sales shall be reported on oath or affirmation of the trustees to the chancellor, to be approved by him before a conveyance shall be executed.

If such sale be confirmed, and a conveyance directed to be executed, the chancellor shall then make such further order for the disposition of the proceeds, and for their investment, as the case may require.

The proceeds of such sale shall be invested in good and sufficient bonds of individuals, secured by mortgage on unincumbered real estate in the State, worth, without buildings, double the amount loaned, payable with interest semi-annually, or invested in the public funded debt of the United States, and upon the payment of the principal sum invested, or any part thereof, the amount shall be again so invested, and the interest arising on such investment, as soon as received, shall be paid to the persons and for the uses specified in the grant, deed, or devise, and for no other use or purpose; provided, always, that no loan of money received by virtue of the sale of such land shall be made to any person for a greater sum than one thousand dollars, unless it may be for the consideration of lands sold to such person by virtue of this act.

The trustees shall be liable to account, under order of the Court of Chancery, before such master as the chancel-

lor may designate, upon the application of any society, or persons interested in the funds, and the report of such master shall be liable to exceptions; and the chancellor shall have power to give complete relief to the parties.

No land upon which a place of worship is or may be erected, or granted for that purpose, or burying ground, shall be liable to be so sold.

Upon the settlement of their account, the chancellor may direct the assignment of all bonds and mortgages and public stocks remaining in their hands to the society, to which such lands sold may have been granted or devised to be held by such society in trust for the purposes prescribed in such grant or devise, and for no other purpose. Act of March 23, 1859.

The chancellor may, on due cause shown, order the whole or any part of such proceeds to be reinvested in other or more desirable real estate. Act of March 3, 1880.

May Increase Amount or Value of Property. Whenever any religious corporation shall, by its charter or otherwise, be limited in the amount or value of the property which it may acquire and hold for the purposes of such corporation, and the trustees shall desire legal capacity to acquire and hold a larger amount, such trustees may, at any stated meeting of their board, and from time to time, adopt by a vote of a majority of the whole number of trustees, a resolution declaring their desire to have the amount so enlarged, and stating the amount to which it is to be increased, and cause an authenticated, verified copy of such resolution to be filed with the secretary of state.

Such copy shall be certified under the common seal of the corporation, and verified by the oath of the clerk of the corporation that such copy is the true copy of the original resolution as recorded on the minutes, and that it was passed as the law directs.

Upon the filing of such a copy the corporation shall be authorized to hold an increased amount of real and personal estate. Act of March 27, 1889.

Limitation Upon Amount of Property. Any corporation of this State created by any general or special law for benevolent and charitable purposes is authorized to possess real and personal property not exceeding in value the sum of five hundred thousand dollars.

Such corporation may, by vote of its governing body, change the location of its principal place of business.

Nothing in this act shall be construed to exempt the property of such corporation from taxation. Act of March 5, 1890.

Of Conferences, Confraternities, Diocesan Conventions, Presbyteries, Synods, etc. Every association composed of representatives from religious societies or congregations of Christians may, at any regular meeting, by a majority of votes, by ballot or otherwise, according to the law of such association, appoint not exceeding seven members of said association to be trustees of the same, which trustees are constituted a body corporate by whatever name they legally assume.

Such trustees, when they take a name, shall certify such name under their hands and seals, and file such certificate with the clerk of the Court of Common Pleas of the county in which such association held such election of trustees.

Such trustees may receive and dispose of real and personal property to an amount in value not exceeding two thousand dollars a year.

The proceedings of a majority of all the trustees of such corporation, but not of a less number, shall be effectual in law.

To perpetuate a line of succession in such trustees, the members of such association at any regularly appointed meeting may elect a trustee or trustees in the stead of any of those before elected, in case they see cause for the removal of such trustees; provided, such removal shall not be in less than one year after their election into office, and also to fill the vacancy which may be caused by the death or resignation of any trustee.

Such corporation shall elect, as often as they shall deem it expedient, one of their number to be their president, who has power to convene the corporation as occasion may require, preside at its meetings, and execute all contracts.

In case of his inability or refusal to act, then the office of president shall devolve on the senior trustee for the time being, who shall serve until the president is able or willing to serve, or the election of another.

Such corporation may elect, as often as expedient, a secretary, who shall keep the minutes, record the proceedings, have the custody of the common seal and of all documents and books of or relating to such corporation. Any member of such corporation or such association shall have free access to all such papers.

All such papers shall be delivered to his successor in office on the oath of the preceeding secretary, or in case of his death, on the oath of his executors or administrators.

Such corporation may elect as often as they deem it expedient one of their number to be a treasurer, who shall have charge of all the moneys of the corporation, and who shall, when required by the corporation or the association, render a true statement in writing of the receipts and disbursements of the corporation. Act of March 8, 1877.

Diocesan Conventions, Presbyteries, Synods, etc. Any diocesan convention, presbytery, classis, synod, annual conference, or other governing body having jurisdiction over a number of incorporated or unincorporated churches, congregations, or societies of any church or religious denomination in this State, may at any stated or regularly convened meeting elect certain discreet persons, who, upon filing a proper certificate, shall become a body corporate.

The presiding officer and clerk or secretary of such governing body, at the time of such election, shall immediately thereafter prepare a certificate in writing under their hands and seals, which shall contain the title of

such body corporate, the names of the trustees so elected, and the times for which they were respectively chosen to serve, and file the same with the secretary of state.

Any such governing body may, in its discretion, elect more than one set of trustees in such manner, who may in like manner become incorporated, and adopt names to designate them, reference being had to the object of their trust.

Such trustees shall be elected for three years, one or more each year, except that the first trustees shall be elected, one-third of the number for one year, one-third for two years, and one-third for three years. All of which trustees shall, when so required by the governing body, furnish to such body an account of the particulars and items of their trust, and permit an auditing of the same and an inspection of their books and investments, and all things pertaining thereto at such time and in such mode as such governing body directs. Act of March 6, 1886, amending Act of Feb. 10, 1885.

State Denominational Organizations. When the societies or congregations belonging to any one denomination or classification, incorporated or having a right to become incorporated under the Act of April 9, 1875, or any of the supplements thereto, form a general organization in this State in which all the societies or congregations of that denomination are entitled to representation, such State organization or the executive committee thereof may elect any number of its members as trustees, and such trustees may adopt a name and certify the same under their hands and seals and transmit such certificate to the Secretary of State, who shall record the same.

Such trustees and their successors shall, by the name adopted, become a body corporate; and it shall be the duty of each state organization, or the executive committee thereof, to cause notice of all elections of trustees to be given personally to all members of such State organization or executive committee, or mailed to them at their postoffice addresses, if resident in this State, at least ten days before such election, unless such notice be waived.

Such body corporate shall have power to purchase, hold, mortgage, and convey real and personal property, and erect buildings thereon for purposes of business, recreation, or resort, which property and buildings shall be for the use of the members of such societies and congregations and others, subject to regulations adopted by such corporation, and approved by such State organization or executive committee. Act of March 30, 1892, a supplement to Act of April 9, 1875.

Societies or Confraternities of Clergymen. Any church or congregation established by a branch of any society or confraternity of clergymen in this State may be incorporated. The pastor of such church or congregation for the time being, and four of the clergymen resident in the house or parsonage connected with such church, and members of the society or confraternity by which the congregation has been established, elected by a majority of the clergymen so resident, may sign a certificate setting forth the name by which they and their successors shall be known as a body politic, and transmit such certificate to the clerk of the Court of Common Pleas of the county, who shall file and record the same, receiving therefor a fee of one dollar.

The persons so signing such certificate shall be the trustees of such corporation, and they and their successors, by the name of incorporation, shall be able to acquire, purchase, receive, have, and hold any lands, tenements, hereditaments, legacies, donations, moneys, goods, and chattels in trust for the use of such congregation to an amount not exceeding three thousand dollars a year, exclusive of the church edifices, school houses, and parsonages, and the lands whereon the same may be erected, and burying plots, and the same or any part thereof to sell, grant, assign, demise, alien, and dispose of, to sue and be sued, to plead and be impleaded in any court of law or equity, to make and use a common seal, and the same to alter and renew.

To perpetuate a line of succession in such trustees the

successor in office for the time being of such pastor shall by virtue of his office be a trustee; and the office of either of the trustees shall become vacant by his removal out of the limits of such congregation, and whenever the office of any such trustee, except the pastor, shall become vacant by death, removal, resignation, or otherwise, his successor shall be chosen as were the original members of such board of trustees.

Such corporation may elect annually, or oftener if expedient, one of their members to be president, who shall keep the minutes and record the proceedings of the corporation, and have the custody of the common seal and of the papers, documents, deeds, writings, and books of or relating to such corporation, and may convene such corporation as occasion may require.

The proceedings of a majority of all the members of such corporation, but not of a less number, shall be effectual in law.

If any such corporation shall be dissolved by failure to continue the succession of trustees, it may be revived, and the church or congregation incorporated under this act at any time within six years from the date of such dissolution; and thereupon all the property, real and personal, belonging to such dissolved corporation at the time of its dissolution, shall rest in such new corporation. Act of March 23, 1883.

No license shall be granted to keep an inn or tavern, or to sell spirituous, vinous, or malt and brewed liquors within the limits of any lands, owned or controlled by any camp-meeting association incorporated under the laws of the State, used for religious worship or for any objects or purpose for which such associations are formed, nor within one mile in any direction from the outside limits of such lands, except that it may be lawful to renew, from time to time, any such license now existing to make sale thereof at any inn or tavern now located at, and lawfully doing business as such, within such limits. Approved March 9, 1896.

Any incorporated religious society owning and controlling burying grounds, may take and hold any property, real or personal, bequeathed or given upon trust, to apply the income to the improvement of such burying ground, or the erection or preservation of vaults or other features of such burying grounds. Approved Feb. 23, 1897.

Managers of Funds for Retired Clergy. The number of managers or directors hereafter to be elected by any corporation to provide for the support and maintainance of supernumerary or superannuated ministers of the gospel, or the widows or orphans of deceased ministers of the gospel, or to provide for both or any of such objects, shall not exceed eighteen, one-half of whom at least shall be laymen, who shall be residents of the State of New Jersey, and members of some church of the denomination of Christians to which said corporation shall belong. It shall be the duty of such corporations electing such managers or directors to prescribe by by-law, or otherwise, the term of office of such managers or directors, which term shall not exceed three years. Approved March 10, 1898.

THE GENERAL POWERS OF CORPORATIONS.

Every corporation as such is deemed to have power:

1. To have succession by its corporate name, for the period limited in its charter or certificate of incorporation, and when no period is limited, perpetually.

2. To sue and be sued, complain and defend in any court of law or equity.

3. To make and use a common seal, and alter the same at pleasure.

4. To hold, purchase, and convey such real and personal property as the uses of the corporation shall require, not exceeding the amount limited in its charter, and all other real estate which shall have been *bona fide* mortgaged to the said corporation by way of security, or conveyed to them in satisfaction of debts previously contracted in the course of dealings, or purchased at sales

upon judgment or decree, which shall be obtained for such debts; and to mortgage any such real and personal estate with their franchises; the power to hold real and personal estate includes the power to take the same by devise or bequest.

5. To appoint such subordinate officers and agents as the business of the corporation shall require, and to allow them a suitable compensation.

6. To make by-laws not inconsistent with the constitution and laws of the United States and of this State.

7. To wind up and dissolve itself, or be wound up and dissolved in the manner provided by law. Revision, April 7, 1875.

The provisions of the act relating to the insolvency of corporations do not apply to incorporated religious societies.

No corporation to be organized under the laws of this State shall assume or use a name or title already in use by another corporation so organized, or so nearly similar to the name or title of any other corporation of this State as to lead to uncertainty and confusion. Act of March 7, 1888.

The fees and taxes required by law to be paid to the secretary of state on filing in the department of state any certificate or other paper relative to corporations, shall not apply to or be collected from incorporated religious or charitable societies or associations; and all certificates and other papers relative to such societies or associations may be filed in the department of state without the payment of any fee or tax. Act of April 24, 1894.

This is, of course, no exemption from the fees due the register of the county and the clerk of the Court of Common Pleas.

BAPTIST CHURCHES.

How Incorporated. When the members of any Baptist church desire to form themselves into a body corporate, notice of such intention shall be given by an adver-

tisement signed by the clerk, or clerk pro tempore of such church, and set up in open view, at least ten days previous to the day named, at or near the place where the members of such church usually assemble for public worship, and designating the day and hour when, and the place where, they design to meet for such purpose. Upon the day and hour so named, and at the place so named, the members of the church shall assemble, and, by a majority of the votes of the members present, adopt a corporate name.

By a similar vote they may elect any number of persons, not less than three nor more than seven, being members of such church or of the congregation meeting therewith, to be a board of trustees. At such a meeting the pastor or any member of the church called to the chair shall preside, and the clerk of the church shall be the secretary of the meeting and record the proceedings. If no regulation upon the subject has been adopted by the church, then five members of the church shall constitute a quorum, but a smaller number may adjourn the meeting from time to time. P. L. 1873, p. 147.

A certificate of incorporation under the hands and seals of the president and secretary of the meeting shall be filed in the office of the county clerk, who is entitled to a fee of one dollar. P. L., 1876, p. 1323.

Upon the filing of the certificate the members of the church and their successors are, and thereafter continue to be, a body politic and corporate, in fact and in law, by the name expressed in the certificate. Such a corporation has all the powers and is subject to all the liabilities of the corporations named in the general act. Any devise and bequest to any such corporation shall not be defeated by reason of any misnomer, if the intention of the testator can be ascertained. P. L., 1876, p. 1323.

The trustees, as soon as practicable after their election, shall organize for business by appointing one of their number as president, who shall have the custody of the deeds and muniments of title of the property of the cor-

poration. The board shall report to the church annually, or oftener if required, an accurate account of their transactions and the financial condition of the church.

All the proceedings of the board shall be by a majority vote of all the members. P. L., 1873, p. 147, §3.

The board of trustees shall have the care of the church property, except moneys raised for the support of the pastor or for benevolent objects.

They shall not have power to alienate, sell, or incumber such property, close the house of worship to the business or religious meetings of such church, or permit the same to be used for other than such meetings, buy, build, or otherwise involve the church in expense, aside from the ordinary expenditures incurred by the proper care, repairs, and preservation of its property, without express authority from the church. Ib., §4.

The term of office of such trustees may be regulated by by-law or resolution of the church, adopted before their election; and, without such regulation, the trustees shall continue in office one year from their election, and until their successors are chosen. Ib., §5.

To secure a line of succession in the trustees the members of the church may assemble at any time, giving notice as hereinbefore directed, or may so assemble for the election of any other trustee or trustees in the place of those before elected, in case they see cause for their removal, and also to fill any vacancies caused by the death, resignation, or the removal of any trustee out of the limits of the congregation. Ib., §6.

Any Baptist church already incorporated may obtain the privileges of this act by complying with the provisions of the act. P. L., 1876, p. 323.

Elections of trustees will not be invalid for the want of the statutory notice in any case where the time of election is regulated by a rule or standing resolution of the church. P. L., 1872, p. 147, §8.

Any Baptist church incorporated under the general act, Rev. April 9, 1875, shall have power to make such regula-

tions for the transaction of its business, the number and election of its officers, the support of public worship, the calling to and the dismissal from the pastoral office, the proceedings of the board of trustees, and the defining of the duties and powers of such board, as may be deemed from time to time necessary and expedient. *Ib.*, §9.

The provisions of the first eight sections of the revision continue to apply to Baptist societies.

If a Baptist society desires to increase the number of its trustees it may, at any election for trustees, elect an additional number of persons as trustees, not to exceed fifteen in all; provided, that notice of the intention to elect such additional number shall have been given in the manner and for the length of time prescribed for the original election of trustees. *P. L.*, 1894, p. 187.

Any Baptist church, whether incorporated under general or special laws, may, at a regular meeting of the members, held in its usual place of meeting, by a majority vote of the members present, change its corporate name; provided, that at least ten days' previous notice be given of the time, place, and hour of such meeting, by notice posted in a conspicuous place at or near the usual place of meeting, signed by the clerk, or clerk pro tempore, of the church.

A certificate that notice has been duly given, and stating the former name of the church and the name to which the same has been changed, and the proceedings concerning such change of name, signed by the presiding officer of the meeting and the clerk, and duly verified by the oath or affirmation of the clerk, shall be filed in the office of the clerk of the Court of Common Pleas of the county, and immediately after such filing the church is known in law by the new name. *P. L.*, 1883, p. 205.

Any incorporated association of Baptist churches may change its corporate name by a majority vote of its members at any regular meeting, specifying by such vote what the new corporate name shall be. A certificate of such vote stating the old and the new name of the association,

over the hand of the presiding officer, and attested correct by the clerk, shall be filed in the office of the secretary of state. P. L., 1883, p. 49.

All the property belonging to or held in trust for any Baptist church that becomes extinct, shall vest in and become the property of "The New Jersey Baptist State Convention," and its successors and assigns.

This provision shall not affect the title to any Baptist church or Baptist religious society that is held by any of the Baptist associations of this State, nor shall it affect the reversionary interest of any person in such property. P. L., 1886, p. 70.

CHRISTIAN REFORMED CHURCHES.

The provisions of sections thirteen to twenty-four, inclusive, of the general act of 1875, and the provisions of other acts of the legislature relating to the incorporation of trustees of religious societies applying to Reformed or Reformed Dutch churches, are construed to extend and apply to the religious societies or congregations of the State, now or formerly known as True Reformed Dutch churches or Christian Reformed churches, and all proceedings taken by such True Reformed Dutch churches or Christian Reformed churches to incorporate themselves and to exercise corporate powers, are made valid. P. L., 1892, p. 111.

EVANGELICAL LUTHERAN CHURCHES.

The provisions relating to the incorporation, rights, privileges, and duties of the Reformed, formerly the Reformed Dutch church, and also of the German Reformed churches, are extended to all the Evangelical Lutheran churches that are or may be constituted within the State. P. L., 1855, p. 93.

Every congregation of the Evangelical Lutheran church of the State which have organized according to the provisions of the first section of the act entitled "An act to incorporate trustees of religious societies," approved

April 17, 1846, is constituted a body politic and corporate in law, from the date of such organization, by whatever name it may have assumed; and the certificate of every such incorporation, notwithstanding any defect or insufficiency in the form, as recorded in the clerks' offices of the several counties, and also the acts and proceedings of such corporations, are ratified and confirmed. All conveyances and mortgages made to or by such corporations under such organizations are made legal and effectual to the extent that the same would have been legal and effectual if such organizations had been duly incorporated under the provisions of sections eleven to twenty-one, inclusive, of the general act to incorporate the trustees of religious societies.

Any Evangelical Lutheran church may, at the option of a majority of the members, become incorporated under the provisions of the first and second sections of the general act of 1875. P. L., 1884, p. 263.

GERMAN REFORMED CHURCHES.

As, according to the constitution, usages, and customs of the German Reformed churches, the minister, elders, and deacons thereof, for the time being, have the management of the temporalities of such churches, in like manner as the minister, elders, and deacons of the Reformed, formerly the Reformed Dutch churches, within the State, so it is provided that all the provisions of the general act of 1875 relating as well to the incorporation as to the rights, privileges, and duties of the Reformed, formerly the Reformed Dutch churches, are extended to all such German Reformed churches as are or shall be constituted within the State. Rev.—Approved April 9, 1875, §25.

ISRAELITES.

The first eight sections of the revision of 1875 apply to any religious society or congregation of Israelites, otherwise called Hebrews or Jews, within the State. P. L., 1860, p. 51.

The former proceedings of societies or congregations of Israelites are confirmed and made valid, and all conveyances and mortgages of real and personal property made by or to such societies, are confirmed and declared valid by an act approved March 31, 1890.

METHODIST EPISCOPAL CHURCHES.

In all cases where any Methodist Episcopal church owns any lands and real estate, not used or occupied for burial or other purposes, such church may sell and convey the same to the purchaser thereof by deed, in the corporate name of such church, and invest the proceeds of such sale in the purchase of other lands and the erection of buildings thereon for the use of said church; provided, such sale shall be in pursuance of a resolution of the board of trustees of such church. P. L., 1883, p. 108.

In all cases where the conveyance of any lands and real estate has been made to the trustees of any Methodist Episcopal church, as trustees of such church, such trustees and their successors may convey the same to the particular church of which they are trustees by its corporate name; and such a conveyance shall vest in such church as good, effectual, and valid title as if the conveyance to such trustees had been to such church in its corporate name. P. L., 1883, p. 115.

The trustees of a Methodist Episcopal church closed the church building against the duly appointed preacher, on the ground that it was not for the interest of the church that he should be its pastor, and that he was appointed against the wish of a majority of its members. It was held by the court that they had no right to do so, and, after answer, a mandatory injunction was issued requiring them to open the building to the preacher and the congregation. *Whitecar v. Michnor*, 10 Stew., 6.

PRESBYTERIAN CHURCHES.

In all cases where the conveyance of lands and real estate has been made to the trustees of any Presbyterian

church, as trustees of said church, such trustees, or their successors in office, are authorized to convey the same to the particular church of which they are trustees by its corporate name; and such conveyance shall vest in such church as good, effectual, and valid title as if the conveyance to such trustees had been to such church in its corporate name. P. L., 1885, p. 11.

Any presbytery of the Presbyterian church of the United States of America that is, or may be, incorporated under the provisions of the general act, which desires to avail itself of the provisions of any other act or acts providing for the incorporating of presbyteries, may do so by resolution of the board of trustees of such presbytery.

The president of such board of trustees shall make a certificate of such resolution, and of the change or changes in organization or powers intended thereby to be accomplished, and of the act or acts of the provisions whereof it is intended to take advantage, which certificate, under the hand of the president and sealed with the seal of the presbytery, shall be recorded in the office of the Secretary of State. A copy of such certificate, duly certified under the hand and official seal of the Secretary of State, shall be received in evidence in any of the courts of the State. P. L., 1894, p. 334.

In Presbyterian societies the congregation is regarded by the civil law as the substantial, beneficial owners of the church property, and the trustees as the legal instruments to execute their will, and such trustees are regarded as having no legal right to attempt to defeat an agreement entered into by the congregation. *Worrall v. First Church of Millstone*, 8 C. E. Gr., 96.

An election of trustees of a Presbyterian church, by persons who are not contributors to the support of the church, and therefore not qualified by the rule of the church to vote, is void. *State v. Crowell*, 4 Hal., 390.

An information in the nature of quo warranto was allowed in this case to determine who were the lawful trustees.

PROTESTANT EPISCOPAL CHURCHES.

The wardens and vestrymen, for the time being, of every Protestant Episcopal church, not especially incorporated, shall be the trustees of the same, and a body corporate and politic in law, by such name as the trustees shall assume in the manner mentioned in the second section of the act of April 9, 1875. Rev. §27.

Any Protestant Episcopal churches not incorporated under this act may avail themselves of the provisions of this act on certifying their intention so to do, to the clerk of the Court of Common Pleas of the county in which such churches may be situate; and it shall be the duty of the said clerk instantly to record the same. Rev. §28.

When any congregation, duly organized according to the constitution and usages of the Protestant Episcopal church desire to form themselves into a body corporate, notice shall be given of such intention ten days previously, by an advertisement set up in open view at or near the place where such congregation usually assemble for divine service, designating the day when, and the place where, they design to meet for that purpose. Ib., §29.

The congregation having met at the time and place appointed, the rector or minister, or if there be no rector or minister, or if he be necessarily absent, one of the church wardens or vestrymen shall preside at the meeting, and the secretary of the vestry shall record the proceedings of the meeting. The congregation shall then proceed, by a vote of the majority of those present, to designate the corporate name or title by which the church shall be known, which shall be in the manner and form as follows:

“The rector, wardens, and vestrymen of _____ church in _____;” the congregation shall then proceed to choose two wardens, and not more than ten nor less than five vestrymen; and also to fix the day, annually, on which new elections of officers shall take place. A certificate of these proceedings, under the hands and seals of the president and secretary of the meeting, shall

be transmitted to the clerk of the Court of Common Pleas of the county, who shall record the same and receive one dollar for the service. *Ib.*, §30.

The rector, wardens, and vestrymen so appointed shall be a body corporate and politic, in law and in fact, to have continuance forever under the same restrictions, and with the same rights, powers, and privileges as are granted to and imposed on trustees by the first sections and the twelfth section of the general act; provided, nevertheless, if at any time the church be without a minister or rector, the same rights and privileges shall be vested in the wardens and vestrymen.

The rector, wardens, and vestrymen, and their successors, or a majority of them, may make such rules, by-laws, and ordinances, and do everything needful and requisite for the good government and support of the church; all of which shall be entered in a book to be provided and kept for that purpose; provided, that such rules, by-laws, and ordinances shall not be repugnant to the constitution and laws of this State and of the United States. *Rev.* §32.

The qualifications of voters at the annual elections shall conform to the constitution and principles of the Protestant Episcopal church in New Jersey. *Ib.*, §33.

The rector, wardens, and vestrymen shall choose a treasurer, who, when called upon for that purpose, shall render a true and just account to the corporation of all moneys by him received and expended, and pay over the balance which may remain in his hands at the time of settlement to his successor in office. *Ib.*, §34.

When a vacancy shall occur in the office of minister or rector, by death, removal, or otherwise, the wardens and vestrymen, two-thirds of them concurring in the choice, may choose some fit person, duly qualified to act as minister or rector of the church, agreeably to the constitution of the Protestant Episcopal church in the United States of America. The minister or rector so chosen shall preside at all meetings of the wardens and vestrymen,

and have a casting vote, except when the business or question to be decided has relation to the personal interests of the said minister or rector; provided, in the absence of the president the wardens and vestrymen may choose a president pro tempore. *Ib.*, §35.

It shall be lawful for any Protestant Episcopal church in the State, heretofore incorporated, to embrace the privileges of this act by complying with and adopting its provisions. *Ib.*, §36.

Whereas, the legislature by an act passed February 17, 1829, granted to Episcopal congregations the privilege of becoming incorporated according to the "constitution, usages, and customs of the Protestant Episcopal church" in New Jersey, and did not require any oath to be taken or subscribed by the wardens and vestrymen of such churches, and, whereas, under the present revised statutes, doubts have arisen whether the wardens and vestrymen of Episcopal churches are not required to take and subscribe the oaths specified in the act to incorporate religious societies, which provision would occasion great inconvenience, and be entirely "inconsistent with the constitution, usages, and customs of the Protestant Episcopal church in this State"; therefore the wardens and vestrymen of the Protestant Episcopal churches now incorporated, or hereafter to be incorporated in the State, shall not be required to take or subscribe the oaths specified in Section 34 of the act entitled "An act to incorporate trustees of religious societies," approved April 17, 1846; and that the acts and proceedings of the wardens and vestrymen of such Episcopal churches as have omitted to take and subscribe such oaths, are declared as valid and effectual in law as if such oaths had been previously taken and subscribed.

All the provisions of this act relating to the Protestant Episcopal church, shall be equally applicable to the church now designated "the Reformed Episcopal church." P. L., 1875, p. 32.

Every religious corporation which has been created by

act of the legislature, or by letters patent, may acquire, purchase, receive, have, and hold any lands, tenements, hereditaments, legacies, donations, moneys, goods, and chattels of the yearly value of two thousand dollars, although such act or letters patent contain a restrictive clause, limiting the annual revenue and income of the said corporation to a less sum. Rev. §38.

Any congregation may increase or decrease the number of vestrymen by a majority vote of those present at any annual election, statutory notice having been given, provided, that no church shall have more than ten nor less than five vestrymen. A certificate of such change, under the hands and seals of the president and secretary, shall be filed with the clerk of the Court of Common Pleas, and be considered a part of the act of incorporation. The rights of property are not affected by such change. P. L., 1877, p. 148.

Any parish in which a vacancy shall occur in the office of warden or vestryman by any cause may fill such vacancy by an election to be held for that purpose, after ten days' notice, held at the place appointed for holding the annual parish elections, and for the unexpired term only. P. L., 1883, p. 256.

Any congregation of the Protestant Episcopal Church in the State, incorporated under the general act, and having filed a certificate stating the day on which new elections of officers shall annually take place, and desiring to change the day of such annual elections, may make such change at any annual election, by a majority vote of the members present duly qualified to vote, on notice for the statutory period of time. A certificate of the proceedings of the meeting, relating to such change, under the hands and seals of the presiding officer and the secretary shall be filed for record in the office in which the certificate of incorporation of such congregation is filed, and shall thereafter be a part of such act of incorporation. When a congregation shall so change the day of its annual elections, the officers elected at the time when such

change is made, or then in office, in case there shall be a failure to elect new officers, or such as may thereafter be elected at a special meeting, shall continue in office until the first annual election after the meeting at which such change is made, or until their successors shall be elected. Approved March 22, 1898.

Whenever any diocese shall be created in this State by the authority of the General Convention of the Protestant Episcopal church in the United States of America, and desire to be incorporated, the convention of such diocese at a regular meeting in which a majority of the parishes belonging thereto are represented by both clerical and lay deputies may, by resolution, declare their intention to become incorporated; and upon their filing with the Secretary of State a copy of such resolution, together with a certificate stating the name of the diocese, with the name of its president, secretary, and standing committee, which shall consist of not less than four clerical and four lay members, signed by the president and secretary in the presence of the Chancellor, or of a Justice of the Supreme Court, and the convention shall thereupon become a body corporate by the name so certified. P. L., 1880, p. 26.

All the property of the diocese shall vest in and be managed by such corporation, which shall also be capable of taking and holding by gift, grant, devise, bequest, or otherwise any property in trust for religious, ecclesiastical, charitable, or educational objects, appertaining to or under the control of said convention, or other ecclesiastical authority of the Protestant Episcopal Church in the diocese, and of executing the same; provided, that the same shall not be inconsistent with the constitution, canons, or laws of such church. *Ib.*, §2.

Such a corporation may appoint or elect in their own manner discreet persons as trustees, not less than five, who shall be members of the Protestant Episcopal Church, citizens of the State, residing within the limits of the diocese; and upon the filing with the Secretary of

State a certificate, under the hand and seal of the president and secretary of the convention, stating the corporate name selected for such trustees, and the names of the trustees, shall become a body corporate under the certified name. Ib., §3.

The trustees, when so incorporated, shall have the management of any fund already existing, or which may be received, and any accumulations thereof, for the support of the episcopate of the diocese, and the appropriation of the income of such fund for that purpose according to the direction of the convention of the diocese. They shall also be capable of taking and holding property in trust for religious, ecclesiastical, charitable, or educational purposes, under the control of the convention or other ecclesiastical authority of the diocese, and of executing the same when not inconsistent with the law of the church. Ib., §4.

Such trustees shall present to each regular diocesan convention a statement of their proceedings, exhibiting the condition of the fund, with an account of their receipts and disbursements. They may also provide by-laws for the removal of a trustee for good cause, and on such removal, may declare the place vacant, and fill the same until the next regular meeting of the convention, which body shall permanently fill all vacancies. Ib., §5.

Whenever any diocese has been or shall be divided into two or more dioceses, the body of trustees having control of the fund for the support of the bishop of the original or dividing diocese may make such division of all bonds, mortgages, securities, or property as may be or may have been agreed upon by the original and the new diocese, whether after or in prospect of such division, and to assign, transfer, and set over the same to such trustees as may be appointed for the new diocese, to hold to them and their successors for the trusts upon them imposed.

In case of such division so effected, all trusts in relation to the securities so conveyed, incumbent upon the former

trustees, shall *ipso facto* cease and be discharged. *Ib.*, §6.

The convention of any diocese that is or may be incorporated may, at any regular meeting by resolution, change the corporate name of the diocese, and may also by resolution change the corporate name of any or all boards of trustees by them selected that are or may become incorporated, and such change of name shall take effect upon filing with the Secretary of State a copy of such resolutions, certified by the president and secretary of the convention, and acknowledged by them before a master in chancery. *P. L.*, 1887, p. 121.

The property held by such corporations will not be affected by such a change of name. *Ib.*, §2.

After such a change of name such corporations shall have the power under such new name to receive, hold, convey, and administer all estates, gifts, bequests, devises, conveyances, and trusts to them conveyed by their former name. *Ib.*, §3.

Such change of name shall not impair any legal liability or obligation of or to such corporations. *Ib.*, §4.

The English ecclesiastical law has been declared by the courts to be the basis of the law regulating the affairs of the Protestant Episcopal Church, and is in force, except so far as it has been modified by the civil statutes or by the canons and usages of the church.

By force of the act for the incorporation of religious societies, and the supplements thereto, the wardens and vestrymen of the church are the trustees of the church, and to the rector, wardens, and vestrymen is committed the entire control over the temporalities of the church. *Livingston v. Trinity Church*, 16 Vr., 230.

The call of a rector by a vestry, and the acceptance of such call, creates a contract for the payment of the stipulated salary so long as the pastoral relation continues. This contract is a civil right which the courts will protect and enforce. *Jennings v. Scarborough*, 27 Vr., 402.

By the canon law of the Protestant Episcopal Church, a rector canonically elected and in charge can not resign

his parish without the consent of his parish or its vestry, nor can such rector be removed therefrom by the parish or its vestry against his will, except upon the dissolution of his pastoral connection in the manner and by the authority designated by such canon law. *Ib.*

A minister of the Protestant Episcopal church has either the possession of the church edifice or a right, in the nature of an easement, to enter therein on all occasions set apart in the parish for divine services, and a substantial interference with such right will lay the ground for an action at law.

In order to vest the pastor with the ordinary rights in the temporalities pertaining to his office, it is not necessary for the congregation to be incorporated, nor that the title to the church property should be lodged in such congregation. *Lynd v. Menzies*, 4 Vr., 162.

REFORMED DUTCH CHURCHES.

The minister or ministers, elders and deacons, for the time being, or if there be no minister or ministers, the elders and deacons for the time being, of every Reformed, formerly the Reformed Dutch, congregation, shall be the trustees of the same, and a body politic and corporate in law, by such name as such trustees shall assume in the manner directed. *Rev.*, §13.

Such trustees, when they take upon themselves a name, shall certify such name under their hands and seals, and transmit such certificate to the clerk of the Court of Common Pleas of the county, who shall instantly record the same, and receive as fee one dollar, and thereupon such trustees shall be known in law by the name of incorporation so certified and recorded. *Ib.*, §14.

Such trustees are able to acquire, purchase, receive, have, and hold any lands, tenements, hereditaments, legacies, donations, moneys, goods, and chattels in trust for the use of such congregation, and the same, or any part thereof, to sell, grant, assign, demise, alien, or dispose of; to sue and be sued, implead and be impleaded, in any

court of law or equity; to make and use a common seal, and the same to alter and renew at their pleasure; but no deed or instrument of conveyance for any lands, tenements, or hereditaments or real estate shall be effectual in law, unless it be sealed with the common seal and signed by a majority of the members of such corporation. *Ib.*, §15.

Reformed churches, incorporated by charter or otherwise, may renounce such charter or special act of incorporation, by a writing under their hands and seals, and recorded, upon condition that the ministers, elders, and deacons, or elders and deacons, as the case may require, of such congregation shall incorporate themselves under this act. Upon such incorporation and the recording of such writing, their former incorporation shall be dissolved, and all the estate held by virtue of the same shall be vested in the body politic formed according to this act, who shall be deemed to be the legal successors to the former body politic and liable to their debts. *Ib.*, §16.

When two or more congregations which have been united in one body politic shall be disunited by renouncing or foregoing their former incorporation, and shall each or any of them become incorporated under this act, then such lands, tenements, hereditaments, moneys, goods, and chattels as belong to each of such congregations, separately considered, shall remain in the peaceable possession of the body politic of that particular church to which such estate belongs; and all property acquired by such congregations, during their union as a body politic, shall be divided between such congregations in the maner agreed upon by the trustees of such corporation. *Ib.*, §17.

If the trustees of any two or more congregations see cause to renounce or forego their separate corporations, and be formed into one joint corporation, such trustees may, by mutual consent, renounce or forego their separate acts of incorporation by a writing, under their hands and seals, which shall signify also their intention to be-

come one joint corporation, and shall be recorded, upon condition that such trustees form themselves into one corporation according to this act.

Upon the recording of such writing, and after such joint incorporation under this act, their former separate incorporations shall cease and be dissolved, and all the estate held by them separately shall pass to and be vested in the trustees of such joint corporation, who shall be deemed the legal successors in office of the former separate bodies politic, and liable to their debts. *Ib.*, §18.

In order to perpetuate a line of succession in the trustees of any congregation, such minister or ministers, elders and deacons of such congregation, as shall take and record a name, as directed, shall be the first trustees of the same, and shall continue in office until others be duly elected, appointed, or called according to the usage of the Reformed church. Every minister, elder, or deacon, so constituting a trustee, shall continue in office until another person shall, in like manner, be elected, appointed, or called in his stead, and so on as often as occasion may require. If any dispute arise respecting the validity of the election, appointment, or call of such trustees, it shall be referred for final decision to the superior church judicature, to which such congregation is subordinate, according to the constitution of the Reformed church. *Ib.*, §18.

The person who is according to the usage of the Reformed church ordinarily to preside at the meeting of the minister, elders, and deacons of a congregation, shall be president of the corporation. He is empowered to convene the corporation as occasion may require, and at the request of any two or more of the members it is his duty to convene the corporation in the manner and under such regulations as the corporation shall from time to time direct. *Ib.*, §20.

The corporation may from time to time appoint some fit person belonging to the congregation, who shall have the custody of the common seal and the papers, deeds,

writings, documents, and books of or relating to the corporation, who shall keep the minutes and enter the proceedings of the corporation in a book to be kept for that purpose, and who shall deliver all such property of the corporation in his custody, when demanded, to the corporation, under such pecuniary penalty as they shall have previously fixed and ordained. Ib., §21.

Every person of such congregation who regularly contributes to the support of the gospel in such congregation, shall have free access to all the papers, deeds, writings, minutes, documents, and books, of or belonging to the corporation. Ib., §22.

The proceedings, orders, and acts of a majority of all the members of the corporation, but not of a less number, shall be valid and effectual in law. Ib., §23.

No member of the corporation shall be allowed to vote in any matter or thing which immediately affects himself, his private interest, or emolument. Ib., §24.

As stated, in the Reformed Dutch church, the civil office of trustee grows out of the ecclesiastical office of minister, elder, and deacon. Every minister, elder, and deacon properly called and instituted is, by virtue of his office, a trustee, and must of necessity remain such as long as his ecclesiastical office continues.

Such ministers, elders, and deacons, lawfully elected and ordained, and thus inducted into office, though they secede, renounce the authority of the classis and General Synod, and unite with another ecclesiastical body, do not thereby, in law, divest themselves of their offices.

There must be a removal or amotion, by a competent power, to determine an office. If there be a resignation, the resignation must be accepted; and if there be an absolute vacation of an office, such vacation must be recognized and acknowledged. When an original title to an office is sufficient, though good cause of amotion be shown, even in a case where the charter declares that for such cause of amotion the officer shall vacate his office, still the office is not determined until there is an

amotion. *Doremus v. Dutch Reformed church*, 2 Gr. Ch., 332.

All disputes arising in the Reformed Dutch churches respecting the validity of an election, and the appointment or call of elders and deacons, must be referred to the church judicatory, to which the congregation is subordinate; that is, first to the classis, then to particular synod, and lastly, to the General Synod.

The decision of the classis upon any such election, appointment, or call, is final, unless appealed from; and its decision will be respected by the Supreme Court, and full effect given to it. Though the consistory may be dissatisfied with the decision of the classis, they can not get clear of such a decision by changing their allegiance.

Whomsoever the proper judicatory of the Dutch Reformed church decide to be the spiritual officers the Supreme Court will respect as such. *Den Day v. Bolton*, 7 Hal., 206.

REFORMED EPISCOPAL CHURCHES.

All the provisions of the statutes relating to the Protestant Episcopal church are applicable to the church designated the "Reformed Episcopal church." P. L., 1875, p. 32.

ROMAN CATHOLIC CHURCHES.

Any Roman Catholic church or congregation may become incorporated. P. L., 1864, p. 37.

The bishop of the diocese in which a church or congregation may be, the vicar-general of the diocese, or, during a vacancy in such offices, the administrator of the diocese for the time being, and the pastor of the congregation for the time being, or a majority of them, may elect two lay members of such congregation, and may with such laymen, sign a certificate, setting forth the name by which they and their successors shall be known as a body corporate, and transmit such certificate to the clerk of the Court of Common Pleas of the county, who

shall file and record it, for which service he shall receive one dollar.

The church or congregation thereupon becomes a body corporate by the title so taken, certified, and recorded. P. L., 1864, p. 57, §2; P. L., 1874, p. 94, §1.

The persons signing such a certificate shall be the trustees of such corporations, and they and their successors by such name of incorporation may acquire, purchase, receive, have, and hold any lands, tenements, hereditaments, legacies, donations, moneys, goods, and chattels in trust for the use of such congregation to an amount not exceeding three thousand dollars a year, exclusive of the church edifices, school houses, and parsonages, and the lands whereon such are or may be erected, and burying places, and the same or any part thereof to sell, grant, assign, demise, alien, and dispose of; to sue and be sued, plead and be impleaded, in any court of law or equity; to make and use a common seal, and the same to alter and renew at their pleasure. Ib., §3.

In order to perpetuate a line of succession in the trustees of every such congregation, the successor in office, for the time being, of such bishop, vicar-general, and rector, respectively, shall, by virtue of his office, be a trustee in place of his predecessor, and such lay members shall hold their office for one year, and the office of any such layman shall become vacant by his removal out of the limits of the congregation, and whenever the office of any such layman shall become vacant by death, removal, resignation, or otherwise, his successor shall be appointed in the manner provided for the selection of the original lay members of such board of trustees. Ib., §4.

Such a corporation may elect annually, or oftener if expedient, one of their members to be president, who shall keep the minutes and enter the proceedings of the corporation in a book to be kept for that purpose; and shall have custody of the common seal and the papers, documents, deeds, writings, and books of or relating to

the corporation, and who may convene the corporation as occasion may require. *Ib.*, §5.

The acts of a majority of all the members of the corporation, but not of a less number, are effectual in law if they receive the sanction of the bishop, or, in his absence, of the vicar-general, or, in case of a vacancy in that office, of the administrator of the diocese for the time being. *Ib.*, §6; P. L., 1874, p. 94.

If any such corporation shall become dissolved by failure to continue the succession of trustees, it may be revived, and the congregation re-incorporated, at any time within six years of the date of such dissolution; and thereupon all the property belonging to such dissolved corporation at the time of its dissolution shall vest in such new corporation. *Ib.*, §7.

Any incorporated religious association may organize under these provisions, and upon the certificate required, together with a certificate signed by the trustees of such association, consenting to such organization, all the right, title, and interest of such association, in any estate, real or personal, shall be vested in the said body corporate, subject to all the legal liabilities of the association, and the original incorporation of the association shall be null and void. P. L., 1865, p. 422.

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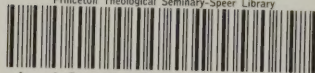
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